

HEWITT TEXAS

CITY OF HEWITT POLICIES AND PROCEDURES

Procedure: Family and Medical Leave

Section: 4.12

Adopted: 10/07/2002

Amended: 11/12/2008; 08/24/2015; 6/15/2017

4.12 FAMILY AND MEDICAL LEAVE

The Family and Medical Leave Act of 1993 (FMLA) is intended to provide job and benefit protection for eligible employee who must take certain types of leave. To qualify for Family Medical Leave (FMLA), an employee must have worked for the City for at least 12 months and worked at least 1,250 hours during the period immediately prior to the start of the leave.

An eligible employee may take up to 12 weeks of leave under this policy during any 12 month period. For purposes of this policy, the City will measure the 12 month period as a rolling 12 month period measured backward from the date an employee uses any qualified leave.

A. BASIC LEAVE ENTITLEMENT

Eligible employees may take leave for one or more of the following reasons:

1. For incapacity due to pregnancy, prenatal medical care or child birth;
2. To care for the employee's child after birth or placement for adoption or foster care;
3. To care for the employee's spouse, son or daughter, or parent, who has a serious health condition; or
4. For a serious health condition that makes the employee unable to perform the essential functions of their job.

B. MILITARY FAMILY LEAVE ENTITLEMENT

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The National Defense Authorization Act of 2008 amended the FMLA to provide two military leave entitlements:

1. **Qualifying Exigency Leave** – eligible employees with a spouse, son, daughter, or parent on active duty or called to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies.

Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

2. **Military Caregiver Leave** – eligible employees who are the spouse, parent, child, or next of kin of a covered service member who incurred a serious injury or illness on active duty may take up to 26 weeks of leave to care for the covered service member during a single 12-month period.

A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves.

Under certain circumstances leave may be taken intermittently rather than consecutively or arrangements may be made for the employee to work a part time schedule in accordance to this manual.

If a husband and wife both work for the City, they will be limited to a combined total of 12 weeks in the rolling 12-month period if the leave is taken for the birth of a child or to care for the newborn, placement or care of an adopted or foster child, or to care for a parent who has a serious health condition. If the leave is taken to care for a covered service member with a serious injury or illness, the husband and wife will be limited to a combined total of 26 weeks in the rolling 12-month period.

Entitlement to leave for birth or placement for adoption or foster care expires at the end of the 12 month period from the date of birth or placement. Additionally, leave must be concluded within the twelve month period.

C. EMPLOYEE'S NOTICE REQUIREMENTS

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In order for the City to accommodate an employee's workload during their absence, an employee seeking to take FMLA should provide both their Department Director and Human Resources with at least 30 days' advance notice when the leave is foreseeable.

In the event of medical leave for planned medical treatment for the employee or for the employee's spouse, child or parent, the employee should make a reasonable effort to schedule the treatment so as not to disrupt unduly the City's operations. If the leave is not foreseeable, an employee is expected to provide both their Department Director and Human Resources with as much advance notice as possible, and should follow the City's and their department's usual and customary call-in procedures for reporting unscheduled absences.

All supervisors must immediately notify both their Department Director and Human Resources if they have reason to believe an employee's absence is due to an FMLA covered reason.

D. MEDICAL CERTIFICATION

Any employee requesting FMLA for a serious health condition of the employee or of an eligible family member must submit a Certification of Health Care Provider form. If an employee fails to provide any required certification within 15 days, the City may deny leave until the certification is provided. The certification form must be completed by the patient's health care provider(s) and must contain at least the following:

1. Date condition began;
2. Probable duration of condition;
3. Appropriate medical facts about the condition; and
4. Statement that the employee is needed to care for the ill family member or, in the case of their own illness, is unable to perform their job.
5. In the case of intermittent leave, dates and duration of the treatments necessitating the intermittent leave.

An employee must also provide periodic reports during their FMLA as to their status and intent to return to work, and may be required to submit a "fitness-for-duty" certification before the employee can return to work.

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The City may, at its expense, require a second opinion from a health care provider of its choice if the City has reason to question the Certification of Health Care Provider submitted by the employee. If the opinions of the two health care providers conflict, the City may require, at its own expense, a third medical opinion from a health care provider mutually agreed upon by the employee and the City. The third opinion shall be considered final and binding on both the employee and the City.

E. DESIGNATION

It is the responsibility of the City, not the employee, to designate leave. When an employee requests FMLA or the City acquires knowledge that leave may be for a FMLA purpose, the City will notify the employee of their eligibility to take leave and inform the employee of their rights and responsibilities under FMLA. When the City has enough information to determine that leave is being taken for a FMLA-qualifying reason, the City will notify the employee within five (5) business days that the leave is designated and will be counted as FMLA.

F. USE OF PAID LEAVE

In accordance to federal law, FMLA leave is unpaid; however, an employee who is placed on FMLA will be required to use accrued paid leave for what would otherwise be unpaid FMLA where appropriate. Accrued paid leave will be used in the following order: sick leave, vacation leave, and then compensatory time. The use of these types of paid leave will run concurrently with FMLA and must be exhausted before an employee can take unpaid leave.

Workers' Compensation leave, to the extent that it qualifies, will automatically be treated and designated as FMLA and will run concurrently with FMLA.

It is the responsibility of the employee's supervisor/manager to designate absences as FMLA when reporting the employee's hours in the payroll system.

G. CONTINUATION OF INSURANCE BENEFITS

While the employee is on FMLA, the City will continue to provide its share of contributions toward the cost of insurance. The employee must continue to pay their share of premiums. If the employee is receiving pay by utilizing accrued sick,

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vacation, or compensatory time while they is on leave, the employee's share of premium will continue to be deducted from their paycheck. If the leave is unpaid, the employee must make arrangements with the payroll department to continue paying their share of the premium as well as any voluntary deductions.

If an employee chooses not to pay their share of premiums or payment is more than thirty (30) days late, the employee's coverage may be cancelled for the duration of the leave. The City will provide fifteen (15) days' notification prior to the employee's loss of coverage.

When an employee whose coverage was cancelled due to non-payment of premiums returns from FMLA, their benefits will be restored at the same level of coverage that they would have had if leave had not been taken and the premiums had been paid.

H. FAILURE TO RETURN TO WORK

Employees failing to return to work after FMLA may be required to reimburse the City for insurance premiums paid by the City while the employee was on FMLA.

I. BENEFIT ACCRUAL

Any employee on unpaid FMLA will not accrue vacation or sick leave.

J. INTERMITTENT LEAVE/REDUCED WORK SCHEDULE

Under specific circumstances, FMLA may be taken intermittently or on a reduced leave schedule. When leave is needed for planned medical treatment, the employee must make a reasonable effort to schedule treatment so as not to unduly disrupt the City's operation. Leave due to qualifying exigencies may also be taken on an intermittent basis.

1. BIRTH/CHILD PLACEMENT

If leave is taken after the birth or placement of a child for adoption or foster care, the employee may take leave intermittently or on a reduced schedule only if the City Manager or their designee agrees to such condition. Such approval is not required when the mother or newborn child has a serious health condition.

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2. MEDICAL TREATMENT/RECOVERY

Leave may be taken intermittently or on a reduced work schedule when medically necessary for treatment of a serious health condition, recovery from a serious health condition or recovery from treatment. Additionally this type of leave may be taken to provide physical or psychological care for an immediate family member with a serious health condition.

When an employee is placed on a reduced work schedule or intermittent leave, the employee may be temporarily assigned to another position of equal pay and benefits; however it may not include duties restricted by a physician. When the need for intermittent leave or reduced work schedule no longer exists, the employee will be placed in the same or equivalent job as when the leave commenced.

K. RETURN TO WORK

Employees taking leave under FMLA will be allowed to return to the same position or a position equivalent in pay, benefits, and working conditions. Returning employees have no greater right than if they had been continuously employed during the FMLA period.

Any employee taking FMLA due to their own serious health condition may be required to provide a fitness-for-duty certification before returning to work. Failure to submit such certification may result in disciplinary action up to and including termination.

Employees returning to full duty from intermittent leave will not be required to submit fitness-for-duty certification, except for cases where reasonable job safety concerns exist.

Employees considered to be “key employees” or those amongst the highest paid ten (10) percent in the City will not be denied the right to take FMLA but may not be restored in the event that restoration would cause great economic injury to the City.

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L. EXTENDED MEDICAL LEAVE

Nothing in this policy prevents the City from granting extended medical leave for employees beyond the initial twelve (12) weeks of FMLA; however, the same protections and benefits granted under FMLA will not be continued during this extended leave. In addition, employees on unpaid extended medical leave will not accrue vacation or sick leave.

Requests for extended medical leave should be submitted in writing to the City Manager through the Human Resources Department. Extended medical leave may be granted or denied in accordance to the impact the request will have on the organization.

M. FRAUD

Any employee fraudulently obtaining or continuing FMLA may be subject to disciplinary action, up to and including termination.